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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/931,670	08/16/2001	Achim Ansmann	H 2674A PCT/US	3804

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COGNIS CORPORATION
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EXAMINER

JONES, DAMERON L

ART UNIT	PAPER NUMBER
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1616

12

DATE MAILED: 06/18/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/931,670

Applicant(s)

ANSMANN ET AL.

Examiner

D. L. Jones

Art Unit

1616

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 March 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 11-13, 15 and 18-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 11-13, 15, 18 and 20-22 is/are rejected.
- 7) ☒ Claim(s) 19 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

ACKNOWLEDGMENTS

1. The Examiner acknowledges receipt of Paper No. 11, filed 3/19/03, wherein claim 22 was amended and claims 14, 16, and 17 were canceled.

Note: Claims 11-13, 15, and 18-22 are pending.

RESPONSE TO APPLICANT'S AMENDMENTS/ARGUMENTS

2. The Applicant's arguments filed 3/19/03 (Paper No. 11) to the rejection of claims 11-13, 15, 1, and 20-22 made by the Examiner under 35 USC 112 and/or double patenting have been fully considered and deemed persuasive-in-part for the reasons set forth below.

112 Rejection

The 112 second paragraph rejection is WITHDRAWN because Applicant has amended the claim to overcome the rejection.

Double Patenting Rejection

The rejection of claim 11-13, 15, 18, and 20-22 as being rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-3, 6, and 9-13 of U.S. Patent No. 6,309,628 B1 is MAINTAINED for reasons of record in the office action mailed 2/21/03 (Paper No. 10) and those set forth below.

Applicant asserts that the claims of the instant invention recite the use of a cationic polymer, not just any polymer in general. Furthermore, it is Applicant's position that the silicone compound disclosed in the patented invention has not been shown to

Art Unit: 1616

be a cationic polymer by the Examiner; hence, the inventions are not obvious over one another.

The patented composition is directed to a mixture of a dialkyl ether, a silicone compound, and an emulsifier. First, it is noted that the patented claims do not exclude cationic polymers (e.g., cationic silicone compounds such as Amidomethicone), but read on any silicone compound/polymer. Secondly, it is noted that Table 1, column 9, discloses compositions and properties of pearlescent silicone shampoos. In particular, one of the components of Composition #2 is Amidomethicone. Hence, the patented invention includes cationic polymers (e.g., cationic silicone polymers). Furthermore, Applicant is respectfully requested to review the specification, page 4, lines 3-4, which disclose that Amidomethicone is a cationic silicone polymer. Therefore, as previously set forth, while the claims are not identical, they are not patentably distinct from each other because both sets of claims are directed to a composition and process thereof comprising and alkyl ether sulfate, a polymer (e.g. cationic), and a dialkyl ether corresponding to formula I. The claims differ in that the patent claims specifically disclose that the polymer is a silicone compound (including cationic silicone compounds) and the instant invention specifically states that the polymer is cationic.

CLAIM OBJECTIONS

3. Claim 19 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Art Unit: 1616

CLARIFICATION OF RECORD

4. In the restriction requirement mailed 12/12/02, Paper No. 8, Groups I, II, and III should have been classified based on the emulsifier. Thus, Group I is classified in class 507 subclass 116. Group II is classified in class 524 subclass 747. Group III is classified in class 546 subclass 339. In addition, it should be noted for each group that class 424 subclass 401 will also be searched.

COMMENTS/NOTES

5. It is once again noted that no prior art has been applied to Applicant's elected Group II. Group II is allowable over the prior art of record for reasons of record in the office action mailed 2/21/03, Paper No. 10.

6. It is noted that Applicant did not respond to the Examiner's statements regarding the priority document.


7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to D. L. Jones whose telephone number is (703) 308-4640. The examiner can normally be reached on Mon.-Fri. (alternate Mon.), 6:45 a.m. - 4:15 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jose' Dees can be reached on (703) 308- 4628. The fax phone numbers

Art Unit: 1616

for the organization where this application or proceeding is assigned are (703) 308-4556 for regular communications and (703) 308-4556 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1235.



D. L. Jones
Primary Examiner
Art Unit 1616

May 30, 2003